

CIVIL COVER SHEET

CV 10 -

2843

This is a civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating a civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

TD Bank, N.A.

(b) County of Residence of First Listed Plaintiff New Castle, DE
(IN U.S. PLAINTIFF CASES)

(c) Attorney's Full Name, Address, and Telephone Number:

Angelo A. Stio, III, Pepper Hamilton LLP, NY Times Bldg., 37th Fl.,
620 Eighth Ave., New York, NY 10018-1405 (212) 808-2700

DEFENDANTS

J.P. Morgan Chase Bank, N.A.
Max Kahan, Inc.

County of Residence of First Listed Defendant Franklin, OH
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED

Attorneys (if known)

SPATT, J.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1. Federal Question (U.S. Government Not a Party)
☒ 2. Diversity (Indicate Citizenship of Parties in Item III)
☐ 3. Other (Specify):

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 Incorporated or Principal Place of Business in This State ☐ 1 ☐ 1
Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☒ 3 ☒ 3
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 10 Insurance <input type="checkbox"/> 11 Marine <input type="checkbox"/> 12 Public A/c <input type="checkbox"/> 13 Negotiable Instruments <input type="checkbox"/> 14 Recovery of Overpayment <input type="checkbox"/> 15 Enforcement of Judgment <input type="checkbox"/> 16 Debtors Act <input type="checkbox"/> 17 Recovery of Delinquent Student Loans <input type="checkbox"/> 18 Recovery of Veterans' Benefits <input type="checkbox"/> 19 Stockholders' Suits <input type="checkbox"/> 20 Franchise Contract <input type="checkbox"/> 21 Franchise Product Liability <input type="checkbox"/> 22 Franchise	<input type="checkbox"/> 23 PERSONAL INJURY <input type="checkbox"/> 24 310 Airplane <input type="checkbox"/> 25 315 Airplane Product Liability <input type="checkbox"/> 26 320 Assault, Libel & Slander <input type="checkbox"/> 27 330 Federal Employers' Liability <input type="checkbox"/> 28 340 Marine <input type="checkbox"/> 29 345 Marine Product Liability <input type="checkbox"/> 30 350 Motor Vehicle <input type="checkbox"/> 31 355 Motor Vehicle Product Liability <input type="checkbox"/> 32 360 Other Personal Injury	<input type="checkbox"/> 33 PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 34 365 Personal Injury - Product Liability <input type="checkbox"/> 35 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 36 PERSONAL PROPERTY <input type="checkbox"/> 37 370 Other Fraud <input type="checkbox"/> 38 371 Truth in Lending <input type="checkbox"/> 39 380 Other Personal Property Damage <input type="checkbox"/> 40 385 Property Damage Product Liability	<input type="checkbox"/> 41 610 Agriculture <input type="checkbox"/> 42 620 Other Food & Drug <input type="checkbox"/> 43 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 44 630 Liquor Laws <input type="checkbox"/> 45 640 R.R. & Truck <input type="checkbox"/> 46 650 Airline Regs <input type="checkbox"/> 47 660 Occupational Safety/Health <input type="checkbox"/> 48 690 Other <input type="checkbox"/> 49 710 Labor Law Standards <input type="checkbox"/> 50 720 Labor Mgmt. Relations <input type="checkbox"/> 51 730 Labor Mgmt Reporting & Disclosure Act <input type="checkbox"/> 52 740 Railway Labor Act <input type="checkbox"/> 53 790 Other Labor Litigation <input type="checkbox"/> 54 791 Empl. Ret. Inc. Security Act <input type="checkbox"/> 55 IMMIGRATION <input type="checkbox"/> 56 462 Naturalization Application <input type="checkbox"/> 57 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 58 465 Other Immigration Actions	<input type="checkbox"/> 59 422 Appeal 28 USC 158 <input type="checkbox"/> 60 423 Withdrawal 28 USC 157 <input type="checkbox"/> 61 PROPERTY RIGHTS <input type="checkbox"/> 62 820 Copyrights <input type="checkbox"/> 63 830 Patent <input type="checkbox"/> 64 840 Trademark <input type="checkbox"/> 65 SOCIAL SECURITY <input type="checkbox"/> 66 861 HIA (1395m) <input type="checkbox"/> 67 862 Black Lung (923) <input type="checkbox"/> 68 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 69 864 SSID Title XVI <input type="checkbox"/> 70 865 RSI (405(g)) <input type="checkbox"/> 71 FEDERAL TAX SUITS <input type="checkbox"/> 72 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 73 871 IRS - Third Party 26 USC 7609 <input type="checkbox"/> 74 400 State Reapportionment <input type="checkbox"/> 75 410 Antitrust <input type="checkbox"/> 76 430 Banks and Banking <input type="checkbox"/> 77 450 Commerce <input type="checkbox"/> 78 460 Deportation <input type="checkbox"/> 79 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 80 480 Consumer Credit <input type="checkbox"/> 81 490 Cable/Sat. TV <input type="checkbox"/> 82 810 Selective Service <input type="checkbox"/> 83 850 Securities Commodities Exchange <input type="checkbox"/> 84 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 85 890 Other Statutory Actions <input type="checkbox"/> 86 891 Agricultural Acts <input type="checkbox"/> 87 892 Economic Stabilization Act <input type="checkbox"/> 88 893 Environmental Matters <input type="checkbox"/> 89 894 Energy Allocation Act <input type="checkbox"/> 90 895 Freedom of Information Act <input type="checkbox"/> 91 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 92 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

28 USC § 1335

Brief description of cause

Interpleader of funds subject to Defendants' competing claims

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

See instructions

R. DGE:

Gleeson

DOCKET NUMBER

09-cv-4663

DATE

06/21/2010

SIGNATURE OF ATTORNEY OF RECORD

Angelo Stio/BKC

FOR OFFICE USE ONLY

FILED

AMOUNT

APPLYING TFP

JUDGE

ADS

MAG. JUDGE

ARL

10-2843

ARBITRATION CERTIFICATION

I, Angelo Stio, III, counsel for TD Bank, N.A. do hereby certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs. Relief other than monetary damages is sought.

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks: None

RELATED CASE STATEMENT (SECTION VIII)

All cases that are arguably related pursuant to Division of Business Rule 50.3.1 should be listed in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No

If you answered "no" above:

(a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No

(b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

Am I currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court?

Yes ☒ No ☐

Am I currently the subject of any disciplinary action (s) in this or any other state or federal court?

No ☒ (If yes, please explain) No ☐

Please provide your E-MAIL address and bar code below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court. (This information must be provided pursuant to local rule 11.1(b) of the civil rules)

Attorney Bar Code: AS 7880

E-MAIL Address: stio@pepperlaw.com

Electronic filing procedures were adopted by the Court in Administrative Order No. 97-12, "In re: Electronic Filing Procedures (E-Case)." Electronic filing became mandatory in Administrative Order 2004-08, "In re: Electronic Case Filing." Electronic service of all papers is now required.

I certify the accuracy of all information provided above.

Signature: Angelo Stio/BKC